



PROBATION AND PAROLE BUREAU STANDARD OPERATING PROCEDURES

Procedure No: P&P 60-7	Subject: RESTITUTION, FEES AND FINES
Chapter 60: SIGN-UP PROCEDURE/SUPERVISION STANDARDS	Page 1 of 4
Signature: /s/ Ron Alsbury	Revision Date: 10/05/01; 06/17/02; 3/1/05; 02/15/06
	Effective Date: 06/01/00

I. BUREAU DIRECTIVE: Probation and Parole Bureau employees will follow established procedures for collection of victim restitution, fees and fines from offenders. Collecting victim restitution from offenders will be given high priority.

II. AUTHORITY:

45-9-202, M.C.A.	<i>Alternative Sentencing Authority</i>
46-18-201, M.C.A.	<i>Sentences That May be Imposed</i>
46-18-112, M.C.A.	<i>Content of Pre-Sentence Investigation Report</i>
46-18-241, M.C.A.	<i>Condition of Restitution</i>
46-18-231, M.C.A.	<i>Fines in Felony and Misdemeanor Cases</i>
46-18-232, M.C.A.	<i>Payment of Costs by Defendant</i>
46-18-233, M.C.A.	<i>Fine or Costs as a Condition on Suspended or Deferred Sentence</i>
46-18-234, M.C.A.	<i>When payment of fine or costs due</i>
46-18-235, M.C.A.	<i>Disposition of money collected as fines and costs</i>
46-18-241, M.C.A.	<i>Condition of Restitution</i>
46-18-244, M.C.A.	<i>Type and Time of Payment – Defenses-Ensuring Payment</i>
46-18-247, M.C.A.	<i>Default.</i>
46-18-261, M.C.A.	<i>Recovery of Suppression and Investigation Expenses for Fires Caused by Arson</i>
46-18-237, M.C.A.	<i>Garnishment-Report by Supervising Authority</i>
46-23-1031, M.C.A.	<i>Supervision Fees - account established</i>

III. DEFINITIONS: None.

IV. PROCEDURES:

Probation and Parole Officers will actively pursue and monitor the payment of victim restitution, supervision fees and court fines and fees owed by offenders as determined by the court judgements.

Officers will not collect cash from offenders. Collecting money orders or checks is not advisable. In the event an officer collects a check or money order, the officer must make a photocopy of the money order, place the copy in the Field file and immediately deliver/mail the money order or check to the Clerk of the District Court or the Department of Corrections Collection Unit.

As per 46-18-244 MCA and 46-23-1031 MCA, all restitution and supervision fees will be paid to the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620. All payments must be either a money order or cashier's check. The Offender will submit his/her payments to the Collection Unit, listing his/her name, District Court Judgment Number (ex. DC-01-45), and County of Sentence. The offender can submit one money order for payment on restitution and supervision fees, however the offender must specify how much money is to go to supervision fees and restitution. If the offender fails to do so, the entire amount will be applied to restitution. The Officer shall forward a copy of *P&P 60-9 (B) Supervision Fee Waiver Petition* signed by the judge, parole board, or regional administrator to the Collection Unit if an offender is approved for a supervision fee waiver.

Procedure No: P&P 60-7	Chapter: Sign-Up Procedure/Supervision Standards	Page 2 of 4
Subject: RESTITUTION, FEES AND FINES		

All court fines and fees will be paid to the Clerk of Court from the sentencing jurisdiction.

Montana Code Annotated, 46-18-241 Condition of Restitution requires the following: “The duty to pay full restitution under the sentence remains with the offender or the offender’s estate until full restitution is paid and is a condition of any probation or parole.” “The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender.”

If an offender is not making a good faith effort to pay victim restitution on a regular basis and has income, and all other methods of collecting victim restitution has failed, the officer submits a report of violation to the County Attorney that allows the County Attorney adequate time to file a Petition to Revoke. The Department of Revenue may garnish wages or withhold income tax returns if ordered by the court. Further, in accordance with 46-18-241 MCA, the offender’s obligation to pay full victim restitution remains until paid.

PROCEDURE:

1. Court judgment is reviewed for victim restitution, fee or fine amounts.
2. Court judgment is reviewed for offender payment time lines. If possible, victim is contacted.
3. The offender is informed of the monetary obligation to the victim as ordered by the court and placed on payment schedule. The offender signs *P&P 60-1 (H) Wage Garnishment Authorization* during sign up. The original is forwarded to the DOC Restitution Unit and a copy placed in the offender’s file. The Department will not move to garnish wages unless the offender fails to pay restitution. See #11 below.
4. The monetary obligation amount is indicated on the Rules of Probation.
5. Offender is informed to pay victim restitution, fees and fines as directed by the court. Offender is advised that restitution payments and supervision fees are paid to the Department of Corrections and fines and fees are paid to the Clerk of Court in the sentencing jurisdiction. Offender is advised of the importance of demonstrating a good faith effort to make full and timely payments. The offender will be advised of the possible consequences for failing to pay as directed by the court and P&P.
6. Discuss, pursue and monitor the collection of victim

RESPONSIBILITY:

P&P Officer

P&P Officer

P&P Officer

P&P Officer

P&P Officer

P&P Officer

Procedure No: P&P 60-7	Chapter: Sign-Up Procedure/Supervision Standards	Page 3 of 4
Subject: RESTITUTION, FEES AND FINES		

restitution, fines and fees at least monthly with the offender. If the offender is not current on payments, offender purchases and/or travel should be restricted and/or denied until payments are current.

- | | |
|---|-------------------------|
| 7. Bring in receipt verifying payments are on schedule. A copy of the receipt will be placed in the offender's case file. Do not accept offender's word for payment. | Offender
P&P Officer |
| 8. On at least a quarterly basis, check with the Clerk of District Court or county office responsible for keeping payment records on fines and fees and the Department of Corrections regarding the status of offender restitution and supervision fees. | P&P Officer |
| 9. Status of offender payment of victim restitution, supervision fees and court fines and fees is recorded in P&P 60-1 (D) Adult Chronological History. | P&P Officer |
| 10. Forward a copy of <i>P&P 60-9 (B) Supervision Fee Waiver Request</i> signed by the judge, parole board, or regional administrator to the Collection Unit if an offender is approved for a supervision fee waiver | P&P Officer |
| 11. If offender has failed to maintain payments in a timely fashion, the DOC Collection Unit may be contacted to look at wage garnishment options and/or attachment of tax returns. The P&P Officer will contact the DOC Collection Unit with such request and provide the offenders name, social security number, the case cause number and the employer name and address relative to wage garnishment. (The Collection Unit should already have the signed wage garnishment form as indicated above.) | P&P Officer |
| 12. The Collection Unit will do the necessary paperwork and notifications to arrange to have a wage garnishment and/or tax return attachment implemented. | DOC Restitution Unit |
| 13. If an offender has failed to pay restitution in full prior to their discharge from supervision, the P&P Officer submits a report of violation to the County Attorney. This should be done in an appropriate period of time prior to the offender's discharge to allow the County Attorney adequate time to file a Petition to Revoke. | P&P Officer |
| 14. The offender's obligation to pay full victim restitution remains until paid | Offender |

Procedure No: P&P 60-7	Chapter: Sign-Up Procedure/Supervision Standards	Page 4 of 4
Subject: RESTITUTION, FEES AND FINES		

V. **CLOSING:** Questions concerning this procedure shall be directed to the Regional Administrator.

Sample Letter

P&P 60-1 (H) Wage Garnishment Authorization
P&P 60-9 (B) Supervision Fee Waiver Request